

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GEORGE AUSTIN,	:	NO. 05-280
	:	
Petitioner,	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	

**O R D E R**

**AND NOW**, this **10th** day of **March, 2010**, for the reasons provided in the accompanying Memorandum, it is hereby **ORDERED**:

1. Petitioner's motion to vacate/set aside/correct sentence, pursuant to 28 U.S.C. § 2255, (doc. no. 156) is **DENIED**.
2. Petitioner's petition will be **DISMISSED**.
3. Petitioner's motion to appoint counsel is **DENIED as moot** (doc. no. 157).

**IT IS FURTHER ORDERED** that a certificate of appealability<sup>1</sup> shall not issue and that this case shall be marked

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<sup>1</sup> A prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition. 28 U.S.C. § 2253(c)(1). Rather, a district court must first issue a certificate of appealability (COA). Id. "A [COA] may issue . . . only if the applicant has made a substantial

CLOSED.

AND IT IS SO ORDERED.

S/Eduardo C. Robreno  
**EDUARDO C. ROBRENO, J.**

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showing of the denial of a constitutional right." Id. at § 2253(c)(2). To make such a showing, petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," Tennard v. Dretke, 542 U.S. 274, 282 (2004) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), or that "the issues presented were 'adequate to deserve encouragement to proceed further.'" Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)). Petitioner has not made the requisite showing in these circumstances.